

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

DARRELL GLENN LEE, SR.,

Plaintiff,

v.

CALVIN JOHNSON,

Defendant.

Case No.: 2:23-cv-00194-APG-NJK

ORDER

(Docket No. 2)

On February 6, 2023, *pro se* plaintiff Darrell Glenn Lee Sr., an inmate in the custody of the Nevada Department of Corrections, submitted a complaint under 42 U.S.C. § 1983 and applied to proceed *in forma pauperis*. Docket Nos. 2, 2-1. Plaintiff's application to proceed *in forma pauperis* is incomplete because Plaintiff did not include a financial certificate or an inmate trust fund account statement for the previous six-month period with the application.

The United States District Court for the District of Nevada must collect filing fees from parties initiating civil actions. 28 U.S.C. § 1914(a). The fee for filing a civil-rights action is \$402, which includes the \$350 filing fee and the \$52 administrative fee. *See* 28 U.S.C. § 1914(b). "Any person who is unable to prepay the fees in a civil case may apply to the court for leave to proceed *in forma pauperis*." LSR 1-1. For an inmate to apply for *in forma pauperis* status, the inmate must submit **all three** of the following documents to the Court: (1) a completed **Application to Proceed in Forma Pauperis for Inmate**, which is pages 1–3 of the Court's approved form, that is properly signed by the inmate twice on page 3; (2) a completed **Financial Certificate**, which is page 4 of the Court's approved form, that is properly signed by both the inmate and a prison or jail official; and (3) a copy of the **inmate's prison or jail trust fund account statement for the previous six-month period**. *See* 28 U.S.C. § 1915(a)(1)–(2); LSR 1-2. *In forma pauperis* status does not relieve an inmate of his or her obligation to pay the filing fee, it just means that the inmate

1 can pay the fee in installments. *See* 28 U.S.C. § 1915(b).

2 Plaintiff's complaint included a letter stating that Plaintiff had requested financial
3 information from the prison, but he had not yet received it, and asking to be allowed to proceed
4 without a financial certificate. In the event Plaintiff is having difficulty obtaining the required
5 financial certificate and inmate account statement for the previous six-month period from prison
6 officials, Plaintiff must file a declaration detailing when he requested the documents, whom he
7 spoke to about the status of the documents, whom he followed up with after he did not receive the
8 documents, and their responses. Plaintiff's declaration must include dates of his requests, dates of
9 his follow-up requests, names of the prison officials that he spoke to about the matter, and their
10 responses. If Plaintiff's declaration demonstrates that he has done all that was possible to acquire
11 the documents from prison officials, but was still unable to do so, the Court will consider his
12 application to proceed *in forma pauperis* complete.

13 Accordingly, for the reasons stated above,

14 IT IS ORDERED that the application to proceed *in forma pauperis*, Docket No. 2, is
15 **DENIED** without prejudice.

16 IT IS FURTHER ORDERED that, no later than **April 21, 2023**, Plaintiff must either pay
17 the full \$402 filing fee or file a new fully complete application to proceed *in forma pauperis* with
18 all three required documents: a completed application with the inmate's two signatures on page 3;
19 a completed financial certificate that is signed both by the inmate and the prison or jail official;
20 and a copy of the inmate's trust fund account statement for the previous six-month period.

21 IT IS FURTHER ORDERED that, if Plaintiff is not able to obtain his financial certificate
22 and inmate account statement from prison officials, Plaintiff must file the first three pages of the
23 application to proceed *in forma pauperis* together with a declaration detailing the efforts he took
24 to acquire the financial certificate and inmate account statement from prison officials.

25 IT IS FURTHER ORDERED that, if Plaintiff fails to timely comply with this order, this
26 action will be subject to dismissal without prejudice. A dismissal without prejudice allows
27 Plaintiff to refile the case with the Court, under a new case number, when Plaintiff can file a
28 complete application to proceed *in forma pauperis* or pay the required filing fee.

1 The Clerk of the Court is **INSTRUCTED** to send Plaintiff Darrell Glenn Lee Sr. the
2 approved form application to proceed *in forma pauperis* for an inmate and instructions for the
3 same and retain the complaint, Docket No. 2-1, but not file it at this time.

4 IT IS SO ORDERED.

5 DATED: February 22, 2023.

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10 NANCY J. KOPPE
11 UNITED STATES MAGISTRATE JUDGE
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